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In re Application of: Peter V. Radatti et al.)
Application No.: 09/800,328) **DECISION ON PETITION FOR**
Filed: March 06, 2001) **ACCELERATED EXAMINATION**
For: APPARATUS AND METHODS FOR) **UNDER M.P.E.P. §708.02(VIII)**
INTERCEPTING, EXAMINING AND)
CONTROLLING CODE, DATA AND FILES)
AND THEIR TRANSFER)

This is a decision on the petition, filed July 14, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
- (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's statement "the related art is submitted" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; and

(2) Applicant's submission fails to comply with item (E) in that:

-The Applicant's submission of all of the prior art abstracts and the two-lined description of "Redmond" article does not provide a detailed discussion of the references. The term "abstract" means "a summary of points... usually presented in skeletal form" (see Webster's Ninth New Collegiate Dictionary); therefore, Applicant's submission of the discussion of the references does not meet the requirement of submission of a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

-Applicant's statements, such as "there appears to be no mention of a parser and decryptor," "appears to combine," "appear to disclose," "appear to use," "appear to provide," "unable to locate ... a parser and decryptor," or the like, do not meet the requirement of item (E) (See the Petition, p. 17, lines 2-3, 5-6, 12-13, 18-19; p. 18, lines 1-2, 6-7, 11-12, and 16-17; p. 19, lines 2, 5 and 8, for example). The term "appears" implies some doubt about the existence of the claim elements in the references; and the term "unable to locate" implies that the claim elements may be in the references, but applicant is not able to locate them. These terms do not meet the requirement of item (E) because they do not clearly state that the particular claim elements are not disclosed in the references.

-Applicant's statement with respect to claim 1 is moot because claim 1 was canceled (see the Petition, p.19, lines 11-13).

- With respect to method claims 8-17, Applicant's general statement "none of the related art known or discovered by Applicants teaches or suggests this apparatus or method" and other general statements, without particularly pointing out (for example, comparison between a specific reference with claim limitations) how the subject matters of claims 8-17 are patentable over the references, do not comply with item (E).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.



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